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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/466,046	12/17/1999	TOSHIYUKI OHKUBO	1232-4605	9718

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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

EXAMINER

WHIPKEY, JASON T

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/466,046

Applicant(s)

OHKUBO, TOSHIYUKI

Examiner

Jason T. Whipkey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

New Examiner of Record

1. The examiner of record for this application has been changed to Jason Whipkey. Any inquiry regarding this application should be directed to the new examiner. Current contact information is provided in the last section of this communication.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 25, 2004, has been entered.

Response to Amendment

3. The amendment filed August 25, 2004, cancelled all pending claims and added eight new claims. A rejection of these new claims follows.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 41 is rejected under 35 U.S.C. 102(b) as being anticipated by Abe (U.S. Patent No. 5,568,194).

Regarding **claim 41**, Abe discloses an image capture apparatus, including:

an image capture unit (CCD 13 in Figure 1) adapted to capture an image using an image pickup element (photodiodes on CCD 13; see column 2, lines 54-55);

a switch (not shown; see column 4, line 61) adapted to instruct the image capture apparatus to start to capture the image to be recorded on a recording unit (recording medium M; see column 4, lines 63-67); and

a control unit (comprised of control circuit 15 and white balance adjustment circuit 26) adapted to control the recording process of recording an image captured after the switch is operated (see column 4, lines 60-67),

wherein the control unit controls the recording process using a first value indicating an exposure of an image captured (a photometry value is calculated using data from CCD 13; see column 2, line 65, through column 3, line 2) before the switch is operated (this occurs at step 102 in the flowchart in Figure 3,

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wherein the switch is operated at step 103; see column 4, lines 56-60) and a second value indicating an exposure of an image captured (in step 111, a value of a luminance comparing function is calculated using luminance signals produced by CCD 13; see column 5, lines 23-29) after the switch is operated.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abe in view of Aihara (Japanese Patent Application Publication No. 62-023025).

Claim 42 may be treated like claim 41. However, Abe is silent with regard to notifying a user based on a difference between the first and second values.

Aihara discloses a camera that compares two brightness levels calculated while the camera is in an auto-exposure mode (see abstract). Display driving circuit 35 is used to warn a user when such a difference is greater than a predetermined amount (see abstract).

As stated in the abstract, an advantage to performing such a warning is that an improper exposure may be prevented. For this reason, it would have been obvious to have Abe's camera provide an exposure warning to a user.

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8. Claims 43, 45, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe in view of Kitajima (U.S. Patent No. 5,808,681).

Claim 43 may be treated like claim 41. Additionally, Abe discloses:

the control unit also controls the recording process using a third value indicating a white balance (white balance information is output from white balance sensor 27; see column 2, lines 54-56) before the switch is operated (this occurs at step 101 in the flowchart in Figure 3, wherein the switch is operated at step 103; see column 4, lines 54-56) and a fourth value indicating a white balance (coefficients A_b and A_r of the white balance are produced in steps 112-117; see column 5, lines 27-36) after the switch is operated.

Abe is silent with regard to using a captured image to produce white balance values; instead, he uses white balance sensor 27.

Kitajima discloses an electronic still camera that performs white balancing. As stated in column 9, lines 4-7, a separate color measuring sensor 9 may be omitted, and the image signal transmitted from imaging CCD 3 may be used to detect color temperature information.

An advantage to using an image sensor to gather data for performing white balancing is that a separate sensor may be omitted, thus simplifying the hardware design and reducing the cost of the structure. For this reason, it would have been obvious for Abe to use signals from the CCD to produce white balance values.

Regarding **claim 45**, Abe discloses:

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an image capture unit (CCD 13 in Figure 1) adapted to capture an image using an image pickup element (photodiodes on CCD 13; see column 2, lines 54-55);

a switch (not shown; see column 4, line 61) adapted to instruct the image capture apparatus to start to capture the image to be recorded on a recording unit (recording medium M; see column 4, lines 63-67); and

a control unit (comprised of control circuit 15 and white balance adjustment circuit 26) adapted to control the recording process of recording an image captured after the switch is operated (see column 4, lines 60-67),

wherein the control unit controls the recording process using a first value indicating a white balance (white balance information is output from white balance sensor 27; see column 2, lines 54-56) before the switch is operated (this occurs at step 101 in the flowchart in Figure 3, wherein the switch is operated at step 103; see column 4, lines 54-56) and a second value indicating a white balance (coefficients A_b and A_r of the white balance are produced in steps 112-117; see column 5, lines 27-36) after the switch is operated.

Abe is silent with regard to using a captured image to produce white balance values; instead, he uses white balance sensor 27.

Kitajima discloses an electronic still camera that performs white balancing. As stated in column 9, lines 4-7, a separate color measuring sensor 9 may be omitted, and the image signal transmitted from imaging CCD 3 may be used to detect color temperature information.

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An advantage to using an image sensor to gather data for performing white balancing is that a separate sensor may be omitted, thus simplifying the hardware design and reducing the cost of the structure. For this reason, it would have been obvious for Abe to use signals from the CCD to produce white balance values.

Regarding **claim 47**, Abe discloses:

the control unit also controls the recording process using a third value indicating an exposure of an image captured (a photometry value is calculated using data from CCD 13; see column 2, line 65, through column 3, line 2) before the switch is operated (this occurs at step 102 in the flowchart in Figure 3, wherein the switch is operated at step 103; see column 4, lines 56-60) and a fourth value indicating an exposure of an image captured (in step 111, a value of a luminance comparing function is calculated using luminance signals produced by CCD 13; see column 5, lines 23-29) after the switch is operated.

9. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abe in view of Kitajima and further in view of Aihara.

Claim 44 may be treated like claim 43. However, Abe is silent with regard to notifying a user based on a difference between the first and second values.

Aihara discloses a camera that compares two brightness levels calculated while the camera is in an auto-exposure mode (see abstract). Display driving circuit 35 is used to warn a user when such a difference is greater than a predetermined amount (see abstract).

As stated in the abstract, an advantage to performing such a warning is that an improper exposure may be prevented. For this reason, it would have been obvious to have Abe's camera provide an exposure warning to a user.

10. Claims 46 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe in view of Kitajima and further in view of Hieda (U.S. Patent No. 4,811,086).

Claims 46 and 48 may be treated like claims 45 and 47, respectively. However, Abe is silent with regard to notifying a user based on a difference between the first and second values.

Hieda discloses an image sensing apparatus that produces a warning signal in an electronic viewfinder when a calculated difference for a color correction signal for white balancing exceeds a preset amount (see column 11, line 44, through column 12, line 7).

An advantage to performing such a warning is that a user may avoid an improper white balance setting when the camera is incapable of performing the setting on its own. For this reason, it would have been obvious to have Abe's camera provide a white balance warning to a user.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Whipkey, whose telephone number is (703) 305-1819. The examiner can normally be reached Monday through Friday from 8:30 A.M. to 6:00 P.M. eastern standard time, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber, can be reached on (703) 305-4929. The fax phone number for the organization where this application is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTW

December 12, 2004

AUNG MOE
PRIMARY EXAMINER